

Filed for intro on 02/05/98
HOUSE BILL 3315 By
Burchett

SENATE BILL 3339
By Atchley

AN ACT to amend Tennessee Code Annotated, Section 4-29-220, and to enact the "Domestic Violence Lethality and Fatality Review Panel Act of 1998".

SECTION 1. This act shall be known and may be cited as the "Domestic Violence Lethality and Fatality Review Panel Act of 1998".

SECTION 2. There is hereby created the Tennessee Domestic Violence Lethality and Fatality Review Panel, otherwise known as the state panel. For administrative purposes, the state panel shall be attached to the department of health.

SECTION 3. The state panel shall be composed as provided herein. Any ex-officio member, other than the commissioner of health, may designate an agency representative to serve in such person's place. Members of the state panel shall be as follows:

- (1) The commissioner of health, who shall chair the state panel;
- (2) The attorney general and reporter;
- (3) The commissioner of the Department of Children's Services;
- (4) The director of the Tennessee Bureau of Investigation;
- (5) A physician nominated by the state chapter of the American Medical

Association;

500000000

50000000

011397

01139748

(6) A physician to be appointed by the commissioner of health who is credentialed in forensic pathology;

(7) A member of the judiciary selected from a list submitted by the chief justice of the Tennessee Supreme Court;

(8) The president of the state professional society on domestic violence;

(9) A panel coordinator, to be appointed by the commissioner of health;

(10) Two (2) members of the House of Representatives to be appointed by the Speaker of the House, at least one (1) of whom shall be a member of the House Health and Human Resources Committee;

(11) Two (2) senators to be appointed by the Speaker of the Senate, at least one (1) of whom shall be a member of the Senate General Welfare, Health and Human Resources Committee;

(12) The Commissioner of the Department of Correction; and

(13) The Chair of the Board of Paroles.

SECTION 4. All members of the state panel shall be voting members. All vacancies shall be filled by the appointing or designating authority.

SECTION 5. The state panel shall:

(1) Review reports from the local Domestic Violence Lethality and Fatality Review Panel;

(2) Report to the governor and the general assembly concerning the state panel's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of families and children of domestic violence;

(3) Undertake annual statistical studies of the incidence and cause of domestic violence fatalities in this state. The studies shall include an analysis of community and public and private agency involvement with the decedents and their families prior to and subsequent to the deaths;

(4) Provide training and written materials to the local panels established by this act to assist them in carrying out their duties. Such written materials may include model protocols for the operation of local panels;

(5) Develop a protocol for the collection of data regarding domestic violence deaths;

(6) Upon request of a local panel, provide technical assistance to such panel, including the authorization of another medical or legal opinion on a particular death; and

(7) Periodically assess the operations of domestic violence lethality and fatality prevention efforts and make recommendations for changes as needed.

SECTION 6.

(a) There shall be a minimum of one (1) local panel in each judicial district.

(b) Each local panel shall include the following statutory members or their designees;

(1) A supervisor of social services in the Department of Adult Protective Services and Child Protective Services within the area served by the local panel;

(2) The regional health officer in the department of health in the area served by the local panel or such officer's designee, who shall serve as interim chair pending the election by the local panel;

(3) A medical examiner who provides services in the area served by the local panel;

(4) The District Attorney General or designated prosecutor by the District Attorney General;

(5) The interim chair of the local panel shall appoint the following members to the local panel:

(A) A local law enforcement officer;

(B) A mental health professional;

(C) A family practice physician;

- (D) An emergency medical service provider or firefighter; and
- (E) A court of jurisdiction related to domestic violence (civil and/or criminal);
- (F) A Court of Records or Sessions Court.

(c) Each local Domestic Violence Lethality and Fatality Review Panel may include representatives of public and nonpublic agencies in the community that provide services to families of domestic violence.

(d) The local panel may include non-statutory members to assist them in carrying out their duties. Vacancies on a local panel shall be filled by the original appointing authority;

(e) A local panel shall elect a member to serve as chair;

(f) The chair of each local panel shall schedule the time and place of the first meeting, and shall prepare the agenda. Thereafter, the panel shall meet no less often than once per quarter and often enough to allow adequate review of the cases meeting the criteria for review.

SECTION 7. The local Domestic Violence Lethality and Fatality Review Panel shall:

- (1) Be established to cover each judicial district in the state;
- (2) Review, in accordance with the procedures established by the state panel, all deaths related to domestic violence;
- (3) Collect data according to the protocol developed by the state panel;
- (4) Submit data on domestic violence deaths quarterly to the state panel;
- (5) Submit annually to the state panel recommendations, if any, and advocate for system improvements and resources where gaps and deficiencies may exist; and
- (6) Participate in training provided by the state panel.

(A). Nothing in this act shall preclude a local panel from providing consultation to any panel member conducting an investigation.

(B) Local Domestic Violence Lethality and Fatality Review Panels may request a second medical or legal opinion to be authorized by the state panel in

the event that a majority of the local panel's statutory membership is in agreement that a second opinion is needed.

SECTION 8. (a) The local panel shall have access to and subpoena power to obtain all medical records and records maintained by any state, county or local agency, including, but not limited to, police investigations data, medical examiner investigative data and social services records, as necessary to complete the review of specific fatality.

(b) The local panel shall not, as part of the review authorized under this act, contact, question or interview any family member of the person(s) whose death is being reviewed.

(c) The local panel may request that persons with direct knowledge of circumstances surrounding a particular fatality provide the local panel with information necessary to complete the review of the particular fatality; such persons may include the person or persons who first responded to a report concerning the domestic violence victims.

(d) Meetings of the state panel and each local panel shall not be subject to the provisions of Title 8, Chapter 44, Part 1. Any minutes or other information generated during official meetings of state or local panels shall be sealed from public inspection. However, the state and local panels may periodically make available, in a general manner not revealing confidential information about children and families, the aggregate findings of their reviews and their recommendations for preventive actions.

(e)

(1) All otherwise confidential information and records acquired by the state panel or any local Domestic Violence Lethality and Fatality Review Panel in the exercise of the duties are confidential, are not subject to discovery or introduction into evidence in any proceedings, and may only be disclosed as necessary to carry out the purposes of the state panel or local panels.

(2) In addition, all otherwise confidential information and records created by a local panel in the exercise of its duties are confidential, are not subject to discovery or

introduction into evidence in any proceedings, and may only be disclosed as necessary to carry out the purposes of the state or local panels. Release to the public or the news media of information discussed at official meetings is strictly prohibited. No member of the state panel, a local panel nor any person who attends an official meeting of the state panel or a local panel, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meeting.

(3) This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(f) Each statutory member of a local Domestic Violence Lethality and Fatality Review Panel and each non-statutory member of a local panel and each person otherwise attending a meeting of a Domestic Violence Lethality and Fatality Review Panel shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

SECTION 9. Tennessee Code Annotated, Section 4-29-220(a), is amended by adding the following appropriately numbered subdivision:

() Tennessee Domestic Violence Lethality and Fatality Review Panel, created by Section 2 of this act;

SECTION 10. This act shall take effect July 1, 1998, the public welfare requiring it.